

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

BARRY OSTROFSKY and	:	
LISA OSTROFSKY, his wife,	:	
Plaintiff,	:	CIVIL ACTION NO.:
	:	
v.	:	
	:	JURY TRIAL DEMANDED
JOHN DOE TRUCK OPERATOR, 1-10,	:	
(fictitious names which cannot be	:	
ascertained at this time),	:	
ABF FREIGHT SYSTEM, INC. and	:	
ABC CORPS 1-10 (fictitious names which	:	
Cannot be ascertained at this time), i/j/s/a	:	
Defendants.	:	
	:	

NOTICE OF REMOVAL OF ACTION

Defendants, ABF Freight System, Inc. by and through their attorneys, Salmon Ricchezza Singer & Turchi, LLP, respectfully aver as follows:

1. On or around March 18, 2021, plaintiff commenced a civil action against defendants in Superior Court of New Jersey in Atlantic County, New Jersey. See Exhibit “A” – Plaintiff’s Complaint.

2. On March 31, 2021, plaintiff filed an Amended Complaint in the Superior Court of New Jersey in Atlantic County, New Jersey. See Exhibit “B”-Plaintiff’s Amended Complaint.

3. On March 31, 2021, plaintiff filed a Summons. See Exhibit “C”-Summons.

4. The Summons and Complaint, and Amended Complaint were received by ABF Freight System, Inc. no earlier than April 5, 2021.

5. This Notice of Removal is filed within the time provided by 28 U.S.C. §1446(b).

6. This action satisfies the requirements for removal within the meaning of 28 U.S.C. §1332 in that:

a) Plaintiff’s and Defendant’s citizenships are diverse;

1) Plaintiffs are residents and citizens of the State of New Jersey. According to the Complaint, plaintiff resides at 10 Erma Drive, Township of Egg Harbor, New Jersey.

2) Defendant ABF Freight Systems, Inc. is a corporation incorporated under the laws of the State of Arkansas with its principal place of business located in Fort Smith, Arkansas.

b) The amount in controversy exceeds \$75,000, exclusive of interest and costs. In the Complaint, plaintiffs claim damages for the following:

7. As a result of the carelessness, recklessness and negligence of defendants... plaintiff, Barry Ostrofsky, was caused to suffer severe and permanent bodily injuries, has been caused and will be caused to expend large sums of money for medical treatment necessary to effect a cure for his injuries, been caused and will in the future be caused great pain and suffering, has been caused to be unable to pursue his usual activities, and has been and will in the future be caused to lose large sums of money due to his inability to pursue his usual occupation.

See Exhibit “B” – Plaintiff’s Amended Complaint at ¶7.

7. Therefore, a fair reading of the Complaint reveals that an amount in excess of \$75,000 is at controversy in this suit.

WHEREFORE, defendant ABF Freight System, Inc. respectfully requests that the above action now pending in the Superior Court of New Jersey in Atlantic County, New Jersey, be removed therefrom to this Court.

Respectfully submitted,

SALMON RICCHEZZA SINGER & TURCHI, LLP

By: /s/Dawn Jennings

Dawn L. Jennings

Jon Michael Dumont

123 Egg Harbor Road, Suite 406

Sewell, NJ 08080

(856) 354-8074

djennings@srstlaw.com

Attorneys for Defendants

ARC Best Logistic, Inc., ARC Best II, Inc., and
Panther II Transportation, Inc. [improperly named
as Panther Transportation, Inc.]

Dated: January 21, 2021

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within-captioned Notice of Removal of Action was served on the below listed counsel of record via electronic mail and first-class U.S. mail, postage prepaid, upon:

Daniel K. Snyder, Esquire
Aronberg, Kouser, Snyder & Lindeman, P.A.
430 Route 70 West
Cherry Hill, NJ 08002
Attorneys for Plaintiff

SALMON RICCHEZZA SINGER & TURCHI, LLP

By: /s/ Dawn Jennings
Dawn L. Jennings

Dated: April 15, 2021

EXHIBIT A

ATL-L-000890-21 03/18/2021 9:47:48 AM Pg 1 of 5 Trans ID: LCV2021587223

Daniel K. Snyder, Esquire
(Attorney ID No.: 028172005)
ARONBERG, KOUSER, SNYDER
& LINDEMANN, P.A.
430 Route 70 West
Cherry Hill, NJ 08002
(856) 429-1700 Phone
ATTORNEYS FOR PLAINTIFFS

BARRY OSTROFSKY and LISA
OSTROFSKY, his wife,

Plaintiffs,

vs.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
ATLANTIC COUNTY

DOCKET NO.:

JOHN DOE TRUCK OPERATOR 1-10
(fictitious names which cannot be
Ascertained at this time),
ABC FREIGHT SYSTEM, INC., and
ABC CORPS 1-10 (fictitious
names which cannot be ascertained
at this time), i/j/s/a

Civil Action

Defendants

COMPLAINT AND DEMAND
FOR JURY TRIAL

Plaintiffs, Barry Ostrofsky and Lisa Ostrofsky, his wife, residing at 10 Emma Drive, Township of Egg Harbor, County of Atlantic and State of New Jersey by way of complaint against the defendants, ABF Freight System, Inc. with principal offices located at 1221 Wheeler Avenue, City of Forth Smith, County of Sebastian and State of Arkansas, ABC Corps 1-10 and John Doe Truck Operator 1-10 (fictitious names which cannot be ascertained at this time)

says:

FIRST COUNT

1. On or about the 8th day of April, 2019, plaintiff, Barry Ostrofsky was employed by Stockton University located at 101 Vera King Farris Drive, Township of Galloway, County of Atlantic and State of New Jersey

2. At the same date and time, defendant ABF Freight System, Inc., and ABC Corps1-10 (fictitious names which cannot be ascertained at this time) was the employer of John Doe Truck Operator 1-10 (fictitious names which cannot be ascertained at this time) and was hired to transport and deliver a large ladder on pallets to plaintiff's work place.

3. Upon John Doe Truck Operator 1-10's arrival at the loading dock, it was determined that the pallet which the ladder was lying on was broken and the forklift was unable to remove the ladder and pallet from the truck.

4. Plaintiff, Barry Ostrofsky, tried to remove the broken pieces of pallet at which time John Doe Truck Operator 1-10 began yelling at the plaintiff causing him to rapidly turn his head, striking the ladder and getting his hand caught in the broken pallet.

5. The aforesaid occurrence was proximately caused by the negligence of defendants ABF Freight System, Inc., ABC Corps 1-10 and John Doe Truck Operator 1-10 (fictitious names which cannot be ascertained at this time) for failing to ensure that the ladder and pallet were free from defects prior to delivery as well as John Doe Truck Operator 1-10 for yelling at plaintiff causing him to strike his head on the ladder and et his hand caught in the broken pallet.

6. The aforesaid occurrence was caused by the negligence of defendants John Doe Truck Operator 1-10, ABC Freight System, Inc. and ABC Corps 1-10, its agents, servants, and

ATL-L-000890-21 03/18/2021 9:47:48 AM Pg 3 of 5 Trans ID: LCV2021587223

employees in failing to take proper safety measures and failing to provide safety equipment and other creating the condition which caused plaintiff, Barry Ostrofsky to be injured.

7. As a result of the carelessness, recklessness and negligence of the defendants, John Doe Truck Operator 1-10, ABC Freight System, Inc., and ABC Corps 1-10, its agents, servants and employees and their disregard for the safety of others, plaintiff, Barry Ostrofsky, was caused to suffer severe and permanent bodily injuries, has been caused and will be caused to expend large sums of money for medical treatment necessary to effect a curer for his injuries, has been cause and will in the future be caused great pain and suffering, has been caused to be unable to purse his usual activities, and has been and will in the future be caused to lose large sums of money due to his inability to pursue his usual occupation.

WHEREFORE, plaintiff, Barry Ostrofsky, demands judgment against the defendants, ABF Freight System, Inc., John Doe Truck Operator 1-10 and ABC Corps 1-10 (fictitious names which cannot be ascertained at this time) in a sum which will reasonably compensate him for the injuries and damages sustained together with interest, attorneys fees and costs of suit.

SECOND COUNT

1. Plaintiffs hereby repeat the allegations of the First Count and incorporate same into this Count as if set forth more fully herein.

2. Plaintiff, Lisa Ostrofsky, is the wife of plaintiff, Barry Ostrofsky, and is entitled to his care, services, companionship and consortium.

3. As a result of the negligence of the defendants, the plaintiff, Lisa Ostrofsky has been deprived of the care, services, companionship and consortium of her husband, Barry Ostrofsky.

ATL-L-000890-21 03/18/2021 9:47:48 AM Pg 4 of 5 Trans ID: LCV2021587223

WHEREFORE, plaintiff, Lisa Ostrofsky hereby demands judgment against the defendants, ABF Freight System, Inc., John Doe Truck Operator 1-10 (fictitious names of persons who cannot be ascertained at this time), and ABC Corporations 1-10 (fictitious names of corporations which cannot be ascertained at this time) in a sum which will reasonably compensate her for the injuries and damages sustained together with interest, attorney's fees and costs of suit.

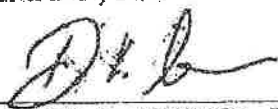
THIRD COUNT

1. Plaintiff repeats the allegations of the First and Second Counts and incorporates same into this Count as if set forth more fully herein.

WHEREFORE, plaintiffs, Barry Ostrofsky and Lisa Ostrofsky, his wife, demand judgment against the defendants, ABF Freight System, Inc., John Doe Truck Operator 1-10 (fictitious names of persons who cannot be ascertained at this time), and ABC Corporations 1-10 (fictitious names of corporations which cannot be ascertained at this time) individually, jointly, severally and/or in the alternative in a sum which will reasonably compensation them for the injuries and damages sustained together with interest, attorneys fees and costs of suit.

ARONBERG, KOUSER, SNYDER
& LINDEMANN, P.A.

BY:


DANIEL K. SNYDER, ESQUIRE
Attorney for Plaintiff

Dated: March 18, 2021

DEMAND FOR A JURY TRIAL

Plaintiff hereby demands a trial by jury.

ATL-L-000890-21 03/18/2021 9:47:48 AM Pg 5 of 5 Trans ID: LCV2021587223

CERTIFICATION UNDER RULE 4:5-1

Pursuant to Rule 4:5-1, the undersigned hereby certifies that this matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration, nor is any other action or arbitration contemplated. Counsel is further unaware of any other parties who should be joined in this action.

DESIGNATION OF TRIAL COUNSEL


Please take notice that pursuant to Rule 4:25-4, Daniel K. Snyder, Esquire, is hereby designated as Trial Counsel in the above captioned matter on behalf of the firm of Aronberg & Kouser, P.A.

NOTICE PURSUANT TO RULES 1:5-1(a) and 4:17-4 (c)

Please take notice that the undersigned attorneys, counsel for plaintiff, do hereby demand, pursuant to Rules 1:5-1(a) and 4:17-4 (c) that each party herein serve pleadings and interrogatories and receiving answers thereto, serve copies of all such pleadings and answered interrogatories received from any party, including any documents, papers and other materials referred to herein, upon the undersigned attorneys. Please take notice that this is a continuing demand.

ARONBERG, KOUSER, SNYDER
& LINDEMANN, P.A.

BY:


DANIEL K. SNYDER, ESQUIRE
Attorney for Plaintiff

Dated: March 18, 2021

EXHIBIT B

ATL-L-000890-21 03/31/2021 10:34:31 AM Pg 1 of 5 Trans ID: LCV2021839862

Daniel K. Snyder, Esquire
(Attorney ID No.: 028172005)
ARONBERG, KOUSER, SNYDER
& LINDEMANN, P.A.
430 Route 70 West
Cherry Hill, NJ 08002
(856) 429-1700 Phone
ATTORNEYS FOR PLAINTIFFS

BARRY OSTROFSKY and LISA
OSTROFSKY, his wife,

Plaintiffs,

vs.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
ATLANTIC COUNTY

DOCKET NO.: ATL-L-890-21

JOHN DOE TRUCK OPERATOR 1-10
(fictitious names which cannot be
Ascertained at this time),
ABF FREIGHT SYSTEM, INC., and
ABC CORPS 1-10 (fictitious
names which cannot be ascertained
at this time), i/j/s/a

Civil Action

Defendants

AMENDED COMPLAINT AND
DEMAND FOR JURY TRIAL

Plaintiffs, Barry Ostrofsky and Lisa Ostrofsky, his wife, residing at 10 Erma Drive, Township of Egg Harbor, County of Atlantic and State of New Jersey by way of complaint against the defendants, ABF Freight System, Inc. with principal offices located at 1221 Wheeler Avenue, City of Forth Smith, County of Sebastian and State of Arkansas, ABC Corps 1-10 and John Doe Truck Operator 1-10 (fictitious names which cannot be ascertained at this time)

says:

FIRST COUNT

1. On or about the 8th day of April, 2019, plaintiff, Barry Ostrofsky was employed by Stockton University located at 101 Vera King Farris Drive, Township of Galloway, County of Atlantic and State of New Jersey

2. At the same date and time, defendant ABF Freight System, Inc., and ABC Corps 1-10 (fictitious names which cannot be ascertained at this time) was the employer of John Doe Truck Operator 1-10 (fictitious names which cannot be ascertained at this time) and was hired to transport and deliver a large ladder on pallets to plaintiff's work place.

3. Upon John Doe Truck Operator 1-10's arrival at the loading dock, it was determined that the pallet which the ladder was lying on was broken and the forklift was unable to remove the ladder and pallet from the truck.

4. Plaintiff, Barry Ostrofsky, tried to remove the broken pieces of pallet at which time John Doe Truck Operator 1-10 began yelling at the plaintiff causing him to rapidly turn his head, striking the ladder and getting his hand caught in the broken pallet.

5. The aforesaid occurrence was proximately caused by the negligence of defendants ABF Freight System, Inc., ABC Corps 1-10 and John Doe Truck Operator 1-10 (fictitious names which cannot be ascertained at this time) for failing to ensure that the ladder and pallet were free from defects prior to delivery as well as John Doe Truck Operator 1-10 for yelling at plaintiff causing him to strike his head on the ladder and et his hand caught in the broken pallet.

6. The aforesaid occurrence was caused by the negligence of defendants John Doe Truck Operator 1-10, ABC Freight System, Inc. and ABC Corps 1-10, its agents, servants, and

ATL-L-000890-21 03/31/2021 10:34:31 AM Pg 3 of 5 Trans ID: LCV2021839862

employees in failing to take proper safety measures and failing to provide safety equipment and other creating the condition which caused plaintiff, Barry Ostrofsky to be injured.

7. As a result of the carelessness, recklessness and negligence of the defendants, John Doe Truck Operator 1-10, ABC Freight System, Inc., and ABC Corps 1-10, its agents, servants and employees and their disregard for the safety of others, plaintiff, Barry Ostrofsky, was caused to suffer severe and permanent bodily injuries, has been caused and will be caused to expend large sums of money for medical treatment necessary to effect a curer for his injuries, has been cause and will in the future be caused great pain and suffering, has been caused to be unable to purse his usual activities, and has been and will in the future be caused to lose large sums of money due to his inability to pursue his usual occupation.

WHEREFORE, plaintiff, Barry Ostrofsky, demands judgment against the defendants, ABF Freight System, Inc., John Doe Truck Operator 1-10 and ABC Corps 1-10 (fictitious names which cannot be ascertained at this time) in a sum which will reasonably compensate him for the injuries and damages sustained together with interest, attorneys fees and costs of suit.

SECOND COUNT

1. Plaintiffs hereby repeat the allegations of the First Count and incorporate same into this Count as if set forth more fully herein.

2. Plaintiff, Lisa Ostrofsky, is the wife of plaintiff, Barry Ostrofsky, and is entitled to his care, services, companionship and consortium.

3. As a result of the negligence of the defendants, the plaintiff, Lisa Ostrofsky has been deprived of the care, services, companionship and consortium of her husband, Barry Ostrofsky.

ATL-L-000890-21 03/31/2021 10:34:31 AM Pg 4 of 5 Trans ID: LCV2021839862

WHEREFORE, plaintiff, Lisa Ostrofsky hereby demands judgment against the defendants, ABF Freight System, Inc., John Doe Truck Operator 1-10 (fictitious names of persons who cannot be ascertained at this time), and ABC Corporations 1-10 (fictitious names of corporations which cannot be ascertained at this time) in a sum which will reasonably compensate her for the injuries and damages sustained together with interest, attorney's fees and costs of suit.

THIRD COUNT

1. Plaintiff repeats the allegations of the First and Second Counts and incorporates same into this Count as if set forth more fully herein.

WHEREFORE, plaintiffs, Barry Ostrofsky and Lisa Ostrofsky, his wife, demand judgment against the defendants, ABF Freight System, Inc., John Doe Truck Operator 1-10 (fictitious names of persons who cannot be ascertained at this time), and ABC Corporations 1-10 (fictitious names of corporations which cannot be ascertained at this time) individually, jointly, severally and/or in the alternative in a sum which will reasonably compensation them for the injuries and damages sustained together with interest, attorneys fees and costs of suit.

ARONBERG, KOUSER, SNYDER
& LINDEMANN, P.A.

BY:


DANIEL K. SNYDER, ESQUIRE
Attorney for Plaintiff

Dated: March 31, 2021

DEMAND FOR A JURY TRIAL

Plaintiff hereby demands a trial by jury.

ATL-L-000890-21 03/31/2021 10:34:31 AM Pg 5 of 5 Trans ID: LCV2021839862

CERTIFICATION UNDER RULE 4:5-1

Pursuant to Rule 4:5-1, the undersigned hereby certifies that this matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration, nor is any other action or arbitration contemplated. Counsel is further unaware of any other parties who should be joined in this action.

DESIGNATION OF TRIAL COUNSEL

Please take notice that pursuant to Rule 4:25-4, Daniel K. Snyder, Esquire, is hereby designated as Trial Counsel in the above captioned matter on behalf of the firm of Aronberg & Kouser, P.A.

NOTICE PURSUANT TO RULES 1:5-1(a) and 4:17-4 (c)

Please take notice that the undersigned attorneys, counsel for plaintiff, do hereby demand, pursuant to Rules 1:5-1(a) and 4:17-4 (c) that each party herein serve pleadings and interrogatories and receiving answers thereto, serve copies of all such pleadings and answered interrogatories received from ay party, including any documents, papers and other materials referred to herein, upon the undersigned attorneys. Please take notice that this is a continuing demand.

ARONBERG, KOUSER, SNYDER
& LINDEMANN, P.A.

BY:


DANIEL K. SNYDER, ESQUIRE
Attorney for Plaintiff

Dated: March 31, 2021

EXHIBIT C

Daniel K. Snyder, Esquire
(Attorney ID No.: 028172005)
ARONBERG, KOUSER, SNYDER
& LINDEMANN, P.A.
430 Route 70 West
Cherry Hill, NJ 08002
(856) 429-1700 Phone
ATTORNEYS FOR PLAINTIFFS

BARRY OSTROFSKY and LISA
OSTROFSKY, his wife,

Plaintiffs,

vs.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
ATLANTIC COUNTY

DOCKET NO.: ATL-L-890-21

JOHN DOE TRUCK OPERATOR 1-10
(fictitious names which cannot be
Ascertained at this time),
ABF FREIGHT SYSTEM, INC., and
ABC CORPS 1-10 (fictitious
names which cannot be ascertained
at this time), i/j/s/a

Civil Action

Defendants

SUMMONS

FROM THE STATE OF NEW JERSEY
TO THE DEFENDANT(S) NAMED ABOVE:

ABF Freight Systems, Inc.
c/o Corporation Service Company
Princeton South Corporate Center
Suite 160
100 Charles Ewing Boulevard
Ewing, NJ 08628

The Plaintiff named above, has filed a lawsuit against you in the Superior Court of New Jersey. The Complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk

of the Superior Court is provided.) If the Complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, CN 971, Trenton, New Jersey. A filing fee (\$175.00) payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services Offices in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

DATED: March 31, 2021

Michelle M. Smith
MICHELLE M. SMITH
SUPERIOR COURT CLERK

NAME OF DEFENDANT TO BE SERVED:

ABF Freight Systems, Inc.
c/o Corporation Service Company
Princeton South Corporate Center
Suite 160
100 Charles Ewing Boulevard
Ewing, NJ 08628

\$175.00 FOR CHANCERY DIVISION CASES OR \$175.00 FOR LAW DIVISION CASES